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TAGS: ECON PGOV BK

SUBJECT: BOSNIA: DODIK RELEASES THE PRIVATIZATION HOUNDS.  
WHAT ARE THEY CHASING?

Classified By: AMBASSADOR DOUGLAS L. MCELHANEY FOR REASON 1.5(B).

¶1. (C) Summary. Republika Srpska (RS) Prime Minister Milorad Dodik has launched a sweeping review of past privatizations as his first major economic policy initiative. A new law will establish a government-appointed commission to hunt for "illegalities" in the privatization process, assign responsibility, and report to prosecutors. The RS government has given itself broad authority, including the ability to "temporarily" freeze shares acquired during privatization, in cases where the commission identifies regulatory lapses. Although Dodik has touted the law as part of his commitment to clean government, others in the RS charge that it is merely a thinly disguised cover for a new

asset grab. The World Bank has voiced concerns that the uncertainty provoked by the new law sends a "negative signal" to investors. The law has brought recent efforts to accelerate privatization in the RS, the major driver behind a tentative upturn in the RS economy, to a screeching halt.  
End Summary.

Let the Privatization Witch Hunt Begin

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¶2. (SBU) The RS National Assembly (RSNA) recently passed the "Law on Revision of Privatization of State-owned Capital in Enterprises and Banks", the first major economic initiative championed by the Dodik government. The law establishes a new budget-funded "Commission for Revision" that is given a mandate to: 1) Determine privatization illegalities; 2) Prevent organized crime from establishing control over (state-owned) capital; 3) Determine the liabilities and responsibilities of government employees in privatization matters and; 4) Check contractual parties and those "they jointly acted with" in the course of privatization.

¶3. (SBU) To accomplish its task, the Commission is given broad authority to obtain virtually any document it deems necessary, including from private sources. It can instruct the RS Supreme Auditor to conduct financial or other audits. It may engage professional experts or others to support its work. The Commission can undertake a review pursuant to a request from any one of twelve institutions or on its own initiative. It is not limited to investigation of activities raised in a revision request and may broaden its scope as it deems necessary. At a minimum, the revision should determine

the initial balance sheet values of enterprises and analyze any significant changes to assets and liabilities. It should also assess whether buyers of privatized assets have met their post-privatization obligations as defined by contract.

¶4. (SBU) The Commission will report its findings to the government, the RSNA, the DfP, the applicant and prosecutors (if relevant). It is required to list any non-compliance with laws or regulations and finger suspects. It is also supposed to determine institutions and persons within them that had responsibility for preventing and reporting non-compliance but failed to do so. The Commission will forward any evidence of criminal behavior to the relevant prosecutors. The RS government will initiate legal proceedings on the basis of the Commission's work. The government may also, "until the finalization of court proceedings, temporarily prohibit management of shares and stock acquired in privatization for which the Commission has documented actions that have resulted in breaches of regulations."

Reaction

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¶5. (C) Dodik maintains that the privatization review is part of his commitment to clean government. Not surprisingly, the new law has provoked widespread unease among others. Many suspect that, at a minimum, Dodik will use the Commission's far-reaching authority to embark on a pre-election fishing expedition for compromising material on his political opponents. The Commission could also provide the basis for well-timed legal suits against the political competition. The new law has had a sobering effect on the DfP, with staff leaving and morale at all-time low.

¶6. (C) The international community, led by the World Bank, is also unnerved by the law. World Bank Country Manager Dirk

Reinermann registered his apprehension with the concept in an April 20 letter in which stressed the need for further privatization but noted, "We need to stress, however, that focusing on past privatizations may send a negative signal to investors and dissipate the energy of the new government." Of greatest concern are provisions allowing the government to interfere with the ownership rights of buyers of privatized firms.

Comment

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¶7. (C) If the newly formed Commission puts the slightest effort into finding irregularities, it is sure to find them. However, ultimate responsibility for privatization failures rest with the RS government, as it formally approves all privatization tenders and other deals proposed by the DfP. Dodik's review may be a useful political tool, but it could also backfire if it discourages investment inflows investments to privatized firms that are motoring the tentative upturn in RS economic activity.

MCELHANEY